IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.10759 of 2001

Dated: 26-07-2006

Between:

M/s. Rayalaseema Re-rolling Mill,
Nandigama Village, Kothur Mandal,
Mahaboobnagar District,
rep. by its Partner Mr. Indarkaran.

... Petitioner

and

1. A.P. Transco, Vidyut Soudha,
   Hyderabad,
   rep. by its Director and two others.

...
Respondents

ORDER:

This writ petition is filed seeking *mandamus* declaring the action of the respondents in disconnecting electricity supply to the petitioner
factory bearing MBN.336, pursuant to Lr.No.ADE/OP/SDNR/F.No.DKT/ D.No.431/2001 dated 20-05-2001, as illegal and arbitrary and consequently direct the respondents to

restore supply to the petitioner factory forthwith.

2. This Court on 12-06-2001 while issuing *Rule Nisi* granted interim direction in W.P.M.P.No.13379 of 2001 in the following manner--

> "The focused grievance in the writ petition is regarding the validity of clause 39.7.3.3.of the terms and conditions of supply issued by the Transmission Corporation of Andhra Pradesh in exercise of powers under Section 45 of the
> Indian Electricity Supply Act, 1948 read with powers under Section 14 sub-section 4 of A.P. Electricity Reforms Act.
>
> The contention in brief is that while affording the facility of reconnection of disconnected supply, in circumstances where there has been prima facie indication of pilferage, on payment of half of the value of energy pilfered as assessed,
> the component of penalty, which is three times the value of energy estimated to have been consumed, is also impregnated into the tariff. It is contended that calling upon the consumer to pay not only the value of energy pilfered but also the penalty thereon at three times the value of energy so deemed to have been consumed though at half of such estimated value, at the time of provisional notice itself even prior to final determination of guilt of the consumer, is liable to be characterized as arbitrary, particularly where the terms of supply are made by the respondent, which is an instrumentality of the State,
> and thus subject to constitutional limitations under Article 14 of the Constitution of India.
>
> I prima facie find that the petitioner has an arguable case and in the circumstances there shall be a direction to the respondents to restore the electricity supply to the petitioner factory bearing Service Connection No.MBN 336 on condition of the petitioner depositing 1/3rd of the estimated value of the energy alleged to have been pilfered, namely 1/3rd of Rs.43,22,169/- (this would broadly correspond to the value of the energy deemed to have been consumed by the petitioner) plus the reconnection charges of Rs.300/- and supervision charges of Rs.300/-. The liability of the petitioner to pay the balance amount or obtain refund of the amounts already paid shall depend

upon further orders on this application."

3. Sri B. Adinarayana Rao, learned Counsel appearing for the petitioner submits that in the light of the said interim order nothing survives and this matter can as well be closed.

4. In the light of the said submission, this Court is of the view that the writ petition can be closed.

5. Accordingly, the writ petition is closed. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.26-07-2006
GLV